

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS**

**IN RE: EpiPen (Epinephrine  
Injection, USP) Marketing,  
Sales Practices and Antitrust  
Litigation**

**MDL No: 2785**

**Case No. 17-md-2785-DDC-TJJ**

**(This Document Applies to Consumer  
Class Cases)**

**ORDER**

This matter is before the Court on Class Plaintiffs’ Renewed Motion to File Under Seal Their Reply in Support of Their Motion to Strike in Part the Testimony of Dr. John H. Johnson IV and Related Documents (ECF No. 2242). As the Court has previously noted, the Supreme Court recognizes a “general right to inspect and copy public records and documents, including judicial records and documents.”<sup>1</sup> The public’s right of access, however, is not absolute.<sup>2</sup> The Court therefore has discretion to seal documents if competing interests outweigh the public’s right of access.<sup>3</sup> In exercising its discretion, the Court weighs the public’s interests, which it presumes are paramount, against those advanced by the parties.<sup>4</sup> The party seeking to overcome

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<sup>1</sup> *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 597 (1978) (citations omitted).

<sup>2</sup> *Helm v. Kansas*, 656 F.3d 1277, 1292 (10th Cir. 2011); *Mann v. Boatright*, 477 F.3d 1140, 1149 (10th Cir. 2007).

<sup>3</sup> *Id.*; *United States v. Hickey*, 767 F.2d 705, 708 (10th Cir. 1985).

<sup>4</sup> *Helm*, 656 F.3d at 1292.

the presumption of public access to the documents bears the burden of showing some significant interest that outweighs the presumption.<sup>5</sup>

Applying this standard, the Court grants the Renewed Motion in part and denies it in part as set forth below.

Mylan has requested redaction of portions of the Memorandum of Law in Further Support of Class Plaintiffs' Motion to Strike in Part the Testimony of Dr. John H. Johnson IV (ECF No. 2225-1). The Court denies the request to redact the lines because the information contained in them is now a matter of public record in the Memorandum and Order dated June 23, 2021 that includes a ruling on Plaintiffs' motion to strike Dr. Johnson's testimony.<sup>6</sup>

Mylan has also requested redaction of portions of a deposition transcript attached as Exhibit B to the Memorandum of Law in Further Support of Class Plaintiffs' Motion to Strike in Part the Testimony of Dr. John H. Johnson IV. For the same reason, the Court denies this redaction request.

Mylan and third parties CVS, Express Scripts, Humana, OptumRX and United, and Sanofi each seek redaction of various portions of Exhibit D to the Memorandum of Law in Further Support of Class Plaintiffs' Motion to Strike in Part the Testimony of Dr. John H. Johnson IV. Exhibit D is Dr. Johnson's Expert Report dated March 18, 2019. The Court grants all redaction requests related to Exhibit D.

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<sup>5</sup> *Id.*; *Mann*, 477 F.3d at 1149.

<sup>6</sup> *See* ECF No. 2380 at 9-14.

**IT IS THEREFORE ORDERED THAT** Class Plaintiffs' Renewed Motion to File Under Seal Their Reply in Support of Their Motion to Strike in Part the Testimony of Dr. John H. Johnson IV and Related Documents (ECF No. 2242) is granted in part and denied in part.

**IT IS FURTHER ORDERED THAT** within thirty (30) days of the date of this order:

(1) Class Plaintiffs must file publicly and without redaction Memorandum of Law in Further Support of Class Plaintiffs' Motion to Strike in Part the Testimony of Dr. John H. Johnson IV (ECF No. 2225-1) and Exhibit B thereto;

(2) Class Plaintiffs must file publicly Exhibit D to Memorandum of Law in Further Support of Class Plaintiffs' Motion to Strike in Part the Testimony of Dr. John H. Johnson IV, with the approved redactions; and

(3) Class Plaintiffs must file publicly the Declaration of Matthew S. Tripolitsiotis in Further Support of Class Plaintiffs' Motion to Strike in Part the Testimony of Dr. John H. Johnson IV, and Exhibits A and C to the Memorandum of Law. No party or third party has requested sealing or redaction of these items.

**IT IS SO ORDERED.**

Dated this 24th day of September, 2021 in Kansas City, Kansas.

  
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Teresa J. James  
U. S. Magistrate Judge